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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: R.C. Tang, Crystal City Four, Suite CP4-3C23, 2201 South Clark Place, Arlington, VA 22202, on the date appearing below.

ELI LILLY AND COMPANY

By

James W. Burt

Date 6-17-02

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	: Tracy Leitner Borts, et al.)	
)	
Serial No.	: 09/091,605)	
)	Group Art
Filed	: June 16, 1998)	Unit 1600
)	
For	: Diabetes Therapy)	Examiner:
)	G. Lee
Docket No.	: X-9872)	

RENEWED PETITION TO REVIVE UNDER 37 C.F.R. §1.137(b)

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

RECEIVED

JUN 17 2002

OFFICE OF PETITIONS

Sir:

The above identified application was abandoned for failure to timely reply to an Office Action mailed on Dec. 19, 2000. Applicants did not have any record of receiving such Office Action; thus, Applicants respectfully state that the delay was unintentional and petition that the application be revived and reinstated as a pending application. Applicants further state that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

For reasons unknown, applicants did not receive, for the above referenced application, the outstanding final

office action and were therefore, unable to respond. A thorough search of the file jacket and docket records indicated that the outstanding office action was not received in our office. There is no evidence to indicate that it was lost after receipt rather than lost in the mail.

On August 23, 2001, a notice of abandonment was mailed to the Applicants. This was the first communication the Applicants received for this docket after the postcard dated September 19, 2000 that indicated receipt of the filed IDS. (Copies of both of these documents are enclosed). Shortly after receiving the notice of abandonment, Applicants contacted the Examiner, requested a copy of the missing Office Action and was informed it would be sent. When the office action was not received, Applicants again contacted the examiner and was told the office action would be faxed, but the fax was not received.

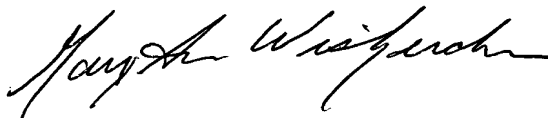
On September 7, 2001, a Petition to Revive under 37 C.F.R. § 1.137(b) was filed by Applicants; however, this petition was dismissed in a PTO document with a mailing date of January 15, 2002, for failure to include a reply to the outstanding office action. Since the office action was not in Applicant's possession after requesting such action from the Examiner of record, a reply could not be filed. Subsequent communications between Applicants and Ms. R.C. Tang of the USPTO petitions office, resulted in receipt of a complementary copy of the outstanding Office Action by the Applicants on April 22, 2002.

Enclosed herein is a renewed petition to revive under 37 CFR 1.137(b), a response to the Office Action, a supplementary IDS, a request for continuing examination

under 37 CFR 1.114 and a petition for extension of time under 37 CFR 1.136(a).

It is Applicant's understanding that the renewed petition under 37 CFR 1.137(b) does not incur a petition fee. Please charge any fees which may be required by this or any other related paper to Deposit Account No. 05-0840. An original and two copies of this paper are enclosed.

Respectfully submitted,



MaryAnn Wiskerchen
Agent for Applicants
Registration No. 45,511

Phone: 317-655-9326

Eli Lilly and Company
Patent Division/MC92H
Lilly Corporate Center
Indianapolis, IN 46285

6-14-02

#12

PTO/SB/64 (10-01)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

X-09872

First named inventor: Tracy L. Borts, et al

Application No.: 09/091,605

Art Unit: 1600

Filed: June 16, 1998

Examiner: G. Lee

Title: Diabetes Therapy

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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JUN 17 2002

OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the
expiration date of the period set for reply in the Office notice or action plus an extensions of time
actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$_____ (37 CFR 1.17(m)) Note: Previously paid.

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of Reply (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee of \$_____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on
the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC
20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

6-14-02
Date

MaryAnn Wiskerchen
Signature

Telephone
Number: (317) 655-9326

MaryAnn Wiskerchen
Typed or printed name

ELi Lilly and Company
Address

P.O. Box 6288
Indianapolis, IN 46206-6288

- Enclosures: ☐ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unintentional delay
- ☒ Other: 1.136a, Form 1449,

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: R.C. Tang, Crystal City Four, Suite CP4-3C23, 2201 South Clark Place, Arlington, VA 22202.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Date

Signature

Type or printed name of person signing certificate



UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/091,605 06/16/98 BORTS

T X-9872

HM12/0823

ELI LILLY & COMPANY
RONALD S MACTAK
LILLY CORPORATE CENTER /DC 1104
INDIANAPOLIS IN 46285

EXAMINER

BRUNOVSKIS, P

ART UNIT

PAPER NUMBER

1832

DATE MAILED:

08/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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AUG 30 2001

ELI LILLY AND CO.
PATENT DIVISION

Notice of Abandonment

Application No
09/091,605

Applicant(s)

Borts et al.

Examiner

Peter Brunovskis,

Art Unit

1632



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

This application is abandoned in view of

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on Dec 19, 2000.

(a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____

(b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee), or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114)

(c) ☒ No response has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

(a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance.

(b) ☐ The submitted issue fee of \$ _____ is insufficient. A balance of \$ _____ is due. The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d) is \$ _____.

(c) ☐ The issue fee and publication fee, if applicable, has not been received

3. ☐ Applicant's failure to timely file new formal drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37)

(a) ☐ Proposed new formal drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____) which is after the expiration of the period for reply.

(b) ☐ The proposed new formal drawings filed on _____ are not acceptable and the period for reply has expired

(c) ☐ No proposed new formal drawings have been received

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application

6. ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below

Deborah Crouch

DEBORAH CROUCH
PRIMARY EXAMINER
GROUP 18007630